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Attention: Frederick Zimmerman

Re: In the Matter of CIW Site, Romulus, Michigan  
Employers Insurance of Wausau  
Petition for Reimbursement of Costs  
Under 42 U.S.C. Section 9606(b)(2)

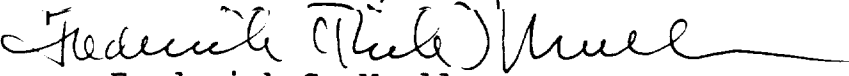
Dear Mr. Zimmerman:

Please find enclosed a copy of Wausau's "Post Response Action Compliance Comments and Comments to USEPA's June 10, 1991 Letter" (PRACC) (dated July 8, 1991) as prepared by its consultant, Conestoga-Rovers & Associates (CRA). The PRACC comments further evidence Wausau's compliance with the unilateral Section 106 Order and demonstrate, as requested by the USEPA in its June 26, 1991 letter, that Wausau has "completed the action."

Accordingly, on behalf of Wausau, we respectfully request that the USEPA withdraw its refusal letter of June 10, 1991 and grant Wausau's previously filed Petition for Reimbursement.

Very truly yours,

JOHNSON & BELL, LTD.

  
Frederick S. Mueller

FSM/jlk  
Enclosure  
cc: Mr. Brett Warning/USEPA (w/encl.)

**POST RESPONSE ACTION COMPLIANCE  
COMMENTS  
AND COMMENTS TO  
USEPA'S JUNE 10, 1991 LETTER**

**PRINTED ON**

**JUL 08 1991**

**POST RESPONSE ACTION COMPLIANCE  
COMMENTS  
AND COMMENTS TO  
USEPA'S JUNE 10, 1991 LETTER**

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## 1.0 INTRODUCTION

On November 28, 1989, the United States Environmental Protection Agency (USEPA) issued an Administrative Order (Docket No. V-W-89-C-039) pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (as amended by the Superfund Amendments and Reauthorization Act) (SARA) 42 U.S.C Section 9606(a) (hereinafter referred to as Order). CIW Company (CIW), K & D Industrial Services, Inc. (K & D), Group Eight Technology, Inc. (Group Eight) and Employers Insurance of Wausau (Wausau) were named as Respondents to the Order. In addition, a subsequent amendment to the Order named the owner, Mr. Howard O. Gabbert, Jr., as a respondent. The respondents were required, by the Order, to "complete emergency removal activities at the [CIW] site to abate a possible imminent and substantial endangerment to the public health and welfare or the environment arising from the actual or threatened release of hazardous substances at the site". According to the Order, the endangerment resulted from the transport of approximately 700 gallons of PCB-contaminated transformer fluids to the CIW used oil recycling facility.

Following an opportunity to confer with the USEPA, and in response to the Order (Page 7, Paragraphs 1 and 2), an Emergency Response Action Plan (ERAP) was prepared by Conestoga-Rovers and Associates (CRA) at the request of Wausau. In order to accomplish the removal requirements stipulated by the USEPA, project work activities were developed under a phased approach, as detailed in the ERAP. A draft ERAP was submitted to

the USEPA for review on January 8, 1990. Comments on the draft ERAP were received from the USEPA by letter dated January 30, 1990. In response to the comments raised by USEPA, a revised ERAP, modified to incorporate certain changes requested by USEPA, was submitted by Wausau to USEPA on February 7, 1990. Final written approval of the ERAP was received from the USEPA by letter dated February 26, 1990.

The CIW Company Site (Site) securement and removal activities conducted under the Order and Phases I and II of the ERAP were completed on January 24, 1991 and a report entitled "Response Action Report, CIW Company Site, Romulus, Michigan" (RAR) was prepared to document all Phase I and II response activities performed at the Site in compliance with the Order and the ERAP. The Response Action Report, dated February 20, 1991 was submitted in accordance with the ERAP's Phase III requirements.

Following submittal of the RAR on February 21, 1991, and until receipt of a letter dated June 10, 1991 from USEPA to Johnson & Bell (counsel for Wausau), neither Wausau nor CRA had any further communication with or from the USEPA regarding response activities performed at the Site or the Order. The June 10, 1991 letter, although captioned by USEPA as referring to a Petition for Reimbursement filed by Wausau with USEPA, contained a number of statements which contended that the response work completed by Wausau had not fully complied with the Order. Because of the USEPA's statements, Wausau requested CRA to visit the CIW Site with USEPA representatives on June 24, 1991 and to prepare this report.

These Post Response Action Compliance Comments (PRACC) address the statements made in USEPA's June 10, 1991 letter and also present information obtained from a Site visit conducted by CRA on June 24, 1991. Finally, the PRACC serves to supplement the RAR and concludes that Wausau abated any possible imminent and substantial endangerment at the CIW Site by completing the response activities required by the Order as amended by the ERAP, and that USEPA's statements of June 10, 1991 are largely incorrect or otherwise address issues that go beyond the scope of the Order and the USEPA-approved ERAP.



## **2.0 COMMENTS TO USEPA's JUNE 10, 1991 LETTER**

### **2.1 GENERAL COMMENTS**

The USEPA's letter of June 10, 1991 states, on the basis of several contentions, that response activities completed by Wausau in accordance with the ERAP were not compliant with the Order or were insufficient in scope. The following comments to USEPA's letter demonstrate that Wausau has complied with the Order as amended by the ERAP. For ease of reference, statements from the June 10, 1991 letter have been reproduced prior to providing Wausau's response.

### **2.2 SPECIFIC COMMENTS**

#### **i) USEPA Statement No. 1 (page 1, last paragraph)**

"The Preamble of the Order required Respondents to "undertake and complete emergency removal activities at the site to abate a possible imminent and substantial endangerment to the public health and welfare or the environment arising from the actual or threatened release of hazardous substances at the site". A possible imminent and substantial endangerment from a threatened release of hazardous substances remains at the site, which is abandoned and has a chain link fence as the only means of security".

### Wausau Comment

The Order states on page 6, paragraph 8 under DETERMINATIONS that the conditions present at the facility which constitute a threat to public health or welfare or the environment are related to the presence of PCBs in oils and sludges or on structural surfaces. Also noted as a threat are waste in drums with high levels of volatile organic compounds. To mitigate this threat, the Order requires under paragraph 4, ORDER (page 8) that certain removal actions and associated activities be completed. A Work Plan is required under the ORDER (paragraph 1, page 7) to be developed to provide the detailed specific work activities that would be performed to comply with paragraph 4 and, hence, the Order. USEPA was required to approve, disapprove, require revisions or modify the Work Plan.

In accordance with paragraph 1, Wausau developed a Work Plan (referred to as the ERAP) and submitted it to USEPA. The ERAP required the removal of all materials contaminated with PCBs above action levels approved by USEPA and all drummed hazardous wastes including those with high levels of volatile organic compounds. USEPA, after review and discussion with Wausau, approved the ERAP. As documented by the RAR, Wausau subsequently implemented the ERAP and by

January 24, 1991 had completed the removal of materials containing PCBs above USEPA-approved action levels and all drummed hazardous wastes including those containing purported high levels of volatile organic compounds.

Since no factors which form the basis of a possible threat to public health or welfare or the environment as defined in the Order remain at the Site and since Wausau has complied fully with the ERAP as approved by USEPA, we find the USEPA statement noted above to be inconsistent with conditions which existed as of January 24, 1991 or on June 24, 1991 at the CIW property. Further, security at the Site is not limited to a chain-link fence as drummed materials are securely housed within a locked building. Wausau is not aware of the presence of materials on the CIW property exterior to buildings that would pose a danger through contact or otherwise to a trespasser to the Site.

ii) USEPA Statement No. 2 (page 2, first paragraph)

"Currently, 62 drums, of hazardous substances/materials remain on site. Of these 62 drums, 14 contain sulfuric acid and two contain sodium hydroxide, both of which are hazardous substances. Furthermore, the storage of these drums in the warehouse on site has created a new possible imminent and substantial endangerment to the public health and welfare or the

environment from a threatened release. The drums in the warehouse are stored such that incompatible chemicals are sitting next to each other. Sodium hydroxide is a corrosive material and very incompatible with acids and metals. Two drums of sodium hydroxide are stored next to drums of activated alumina and sulfuric acid. The drums of activated alumina are of fiber construction and do not provide secure containment at an abandoned facility. If sodium hydroxide mixes with aluminum metal, flammable hydrogen gas is formed and released. Sulfuric acid also reacts violently with metals, releasing large amounts of heat which can ignite dry, combustible materials, a threat compounded at an abandoned facility".

#### Wausau Comment

The USEPA's assertion that activated alumina and sodium hydroxide or activated alumina and sulfuric acid are chemically incompatible is incorrect. In fact, material safety data sheets provided by alumina suppliers state specifically that acidic or basic compounds are not incompatible materials when mixed with activated alumina. Perhaps activated alumina has been confused with aluminum metal. Aluminum metal is not a drummed material presently stored at the CIW Site.

As documented in the RAR, of the 62 drums, 38 contain solid materials which pose no threat of release and eight contain water, a non-hazardous substance. Of the remaining 16 drums, two contain sodium hydroxide in the original unopened containers as supplied by the manufacturer. The virgin sulphuric acid is stored in 14 new polypropylene drums which are specifically designed for acid storage and which were sourced and purchased after considerable effort by Wausau expressly for this purpose. In addition to the sulphuric acid, the activated alumina and sodium hydroxide are virgin commercial product with commercial value purchased by CIW and are not waste generated at the facility. The drummed materials stored at the Site do not contain detectable levels of PCBs.

USEPA's present concern with drum storage in the building is inconsistent with USEPA's prior direction since USEPA specifically directed on October 24, 1990 that drums of homogenized non-hazardous materials be transferred to the warehouse for storage rather than leaving them on the on-Site drum storage pad constructed by Wausau in accordance with the ERAP. Therefore, based on the foregoing, there is no new imminent and substantial endangerment to the public health and welfare or the environment from a threatened release.

iii) USEPA Statement No. 3 (page 2, 2nd paragraph)

"Additionally, the inert liquids that Wausau's contractor Conestoga-Rovers and Associates, Inc.. (CRA) repackaged and left on site are stored in old rusted 55 and 85 gallon drums. Most of the drums are so badly rusted that they pose a serious threat of release. Furthermore, no secondary containment has been provided for these drums. To be contained properly, the liquid must be in 55 gallon drums which are then placed inside 85 gallon drum overpacks. Liquids cannot be placed directly into 85 gallon overpacks".

Wausau Comment

As documented by the RAR and confirmed during the June 24, 1991 Site inspection, no 85-gallon overpack drums were used during the emergency response action to store materials in the warehouse at this Site. Further, none of the 55-gallon drums used for material storage are badly rusted or structurally unsound. At the time the materials were packaged for storage, all drums were in extremely good condition and their integrity was without question. In fact, Wausau procured new polypropylene drums specifically designed for the storage of acid. It must be pointed out that only eight of the 42 drums of homogenized materials stored in the warehouse are liquids. Following extensive testing by Wausau, as documented by the

RAR and as reported to USEPA prior to submission of the RAR, these liquids were determined to be non-RCRA hazardous and, most likely, are simply water.

USEPA's statement that liquids in 55-gallon drums to be properly put in storage require overpacking in 85-gallon drums is not consistent with USEPA's own policies. USEPA requires the use of overpack drums only if the primary container is structurally deficient and has a reasonable probability of failure. The 55-gallon drums used by Wausau were all structurally competent.

Therefore, drum storage as of June 24, 1991 does not pose a new imminent and substantial endangerment to the public health and welfare or the environment from a threatened release.

- iv) USEPA Statement No. 4  
(page 2, last paragraph continuing to top of page 3)

"Currently, a total of seven tanks and tank trucks remain on site with a total of 9,778 gallons of oil, sludge and diesel fuel. PCB contamination in tanks containing oil range from 6 ppm to 19 ppm, according to the Response Action Report (CRA removed from the site, as non-hazardous waste oil, waste oil containing PCBs of 2 ppm, but left the oil containing PCBs of 6 to 19 ppm). Two of the tanks on site contain large volumes of oil. One is a tank truck containing 4,262 gallons and the other is an

underground storage tank (UST) containing approximately 5,000 gallons. A pool of oil currently exists on the ground in the area of the tank truck and the UST".

#### Wausau Comment

As documented by the RAR, an estimated 9,778 gallons of tanked oils, sludges and water remained on Site following completion of Phase II of the response activities. The UST referred to by USEPA (a boiler blowdown tank) contains essentially only water, not oil as claimed by USEPA. Confirmatory sampling and analysis of materials in tanks during Phase II confirmed that remaining materials did not contain PCBs. Table 5 (following page 101, Section 5.0) of the RAR demonstrates that PCBs were not detected in the remaining tanked materials, at detection limits of 6 mg/kg, 1 mg/kg and 19 mg/kg. Due to the matrix being analyzed, these detection limits were the lowest achievable for those specific samples. Appendix J to the RAR presents laboratory reports for the collected samples. Furthermore, all data were submitted to the USEPA during the course of the work as an attachment to the weekly status reports.

The ERAP approved by USEPA required that (see page 19) "The contractor will transfer contaminated oils from the storage tanks to approved hazardous waste liquid tankers". The ERAP also required all materials in tanks to be tested for PCBs to determine



if the materials were contaminated (see page 16). Wausau was not required under the ERAP to dispose of non-PCB contaminated materials from tanks. Tanked materials which remain at the Site are non-PCB contaminated as documented in the RAR. Further, the ERAP required (see page 20) that "The underground tanks will be emptied of liquids and sediments should sampling and analysis indicate these materials contain PCBs." As noted above, the contents of tank TO18 (the UST referred to by USEPA) were confirmed by analysis not to contain PCBs. Therefore, Wausau was not required to remove the contents of this tank pursuant to the ERAP.

We believe that USEPA has incorrectly stated that CRA removed waste oil contaminated with PCBs at 2 ppm as "non-hazardous". If USEPA is referring to the contents of tanker TO23, these materials were removed from Site on November 13, 1990. Section 4.4.3 (page 61) of the RAR clearly states that the contents of tanker TO23 were disposed of at "CWM Chemical Service's incinerator". The associated documentation in Appendix O to the RAR confirms that the oils were manifested as hazardous waste.

The pool of oil referred to by USEPA in its June 10, 1991 letter was not present when Wausau completed Site activities on January 24, 1991 or during the June 24, 1991 Site inspection.

What was observed on June 24, 1991 was some stained gravel overlain by a small pool of clear rainwater.

v) USEPA Statement No. 5 (page 3, 1st full paragraph)

"Soil samples will be collected adjacent to and beneath the elevation of the base of each tank (UST) to confirm PCBs have not been released to surrounding soils during tank operations. Two of the three USTs found on site were excavated and sampling conducted to determine if the contents had leaked. In the area of the third UST, identified as TO18, subsurface sampling was not conducted as provided for in the Emergency Response Action Plan".

Wausau Comment

As documented by the RAR, tank TO18 was a boiler blowdown tank which did not form part of the Facility process stream allegedly contaminated with PCBs by Wausau and did not contain PCB-contaminated materials as discussed in Item iv) above. This tank was, therefore, left in place in accordance with the USEPA-approved ERAP. Since the tank and its contents were not contaminated as determined by sampling, underlying and adjacent soil samples were not collected.

vi) USEPA Statement No. 6 (page 3, 2nd full paragraph)

"After removal of the sinks and tables, the floor was only swept with a broom; additional, post cleanup sampling was not conducted to verify removal of all contamination."

Wausau Comment

The wipe samples collected from the laboratory floor, work bench, and sink were "worst-case" samples. As documented by the RAR, these samples were collected on August 24, 1990, well into the ERAP Phase II removal action. The floor had been tracked on many times during the transfer of the numerous retained oil samples to the laboratory, and also during the subsequent removal of all the retained oil samples from the laboratory. If the floor was contaminated, it would have been apparent from the wipe samples collected at that time. Following removal of the laboratory sink from the laboratory, the floor was swept, and the laboratory locked and, therefore, inaccessible. The potential for cross-contamination of the laboratory floor following sampling was negligible (because the only personnel tracking on the floor were the personnel sweeping the floor), and any additional sampling was unnecessary.

vii) USEPA Statement No. 7 (page 3, last paragraph)

"OSC Peter Guria conducted a site investigation on May 9 and 10 and confirmed the presence of extensive hydrocarbon contamination in the site soils. As mentioned above, there is a pool of oil in the vicinity of tank TO18, the UST. In addition, post cleanup sampling, as required by paragraph 4 (i) at page 8 (Order section) of the Order, was not conducted in some high contact areas such as the exterior walls of the warehouse and laboratory building where tanks and process areas were located".

Wausau Comment

The ERAP required (see page 22) that "Soils, sediments and other solid materials determined to be contaminated with PCBs at concentrations in excess of 10 ppm during site characterization will be excavated and loaded directly into appropriate water tight containers." The ERAP further provides (see page 22) that "All PCB contaminated soils and bulk solids will be landfilled at a TSCA permitted landfill." As provided by the ERAP, Wausau is not responsible for the required remediation, if any, of hydrocarbon-containing soils or bulk solids which are not contaminated by PCBs above a concentration of 10 ppm, nor for the management of oils which do not contain PCBs. Neither the Order nor the ERAP directed the testing or removal of petroleum hydrocarbon impacted soils, as the presence of these

soils at the Site does not pose an imminent or substantial threat to public health or welfare or the environment.

CRA has never observed a pool of oil in the vicinity of tank TO18, either during completion of the ERAP or during the June 24, 1991 Site visit. As noted above, stained gravel overlain by a small pool of clear rainwater was observed by CRA on June 24, 1991.

Exterior walls of the warehouse and laboratory are not "high contact areas" and accordingly were not sampled. As required by the ERAP, only high contact areas required sampling. No aboveground tanks containing PCBs and process areas were located immediately adjacent to either the warehouse or the laboratory as claimed by USEPA. We understand from discussion with the OSC on June 24, 1991 that sampling conducted by USEPA has confirmed these surfaces to be below action levels specified in the ERAP.

viii) USEPA Statement No. 8 (page 4, 1st paragraph)

"Mr. Guria's site investigation, referenced above, also discovered the presence of air purifying respirator cartridges scattered in the area where containment structures were demolished and excavated. These should have been disposed of with all other protective clothing. Also, large oil filters were found scattered

about the areas where the air purifying respirator cartridges were found. Furthermore, twelve (12) containers, ranging in size from one quart to five (5) gallons, of used oil were found sitting outside the warehouse building. Used oil is a CERCLA hazardous waste if it contains any CERCLA hazardous constituents".

#### Wausau Comment

During the June 24, 1991 Site visit, CRA observed five respirator cartridges and the remnants of one oil filter in a small depression in the former operations area. It is possible that these items were covered by mud or standing water and, thus, were not noticed during the final cleanup of the Site following completion of removal actions. The presence of these six items does not pose a threat to public health or welfare or the environment.

In reference to the twelve containers of used oil found outside of the warehouse building, it was common knowledge to all involved at the Site, including USEPA representatives, that from time to time local residents and former users of the CIW waste oil facility surreptitiously left containers of waste oil outside of the facility after CIW ceased operations. Wausau was not responsible for the presence of these small containers of waste oil on or adjacent to the property. The vast majority of the

containers appeared at the facility after contractor demobilization.

ix) USEPA Statement No. 9 (page 4, 2nd paragraph)

"Phase II activities did not begin until May 30, 1990, 30 days later than required under the Emergency Response Action Plan. On-site cleanup activities were completed on January 24, 1991. Thus, on-site cleanup activities were completed in 331 days, 151 days longer than the 180 days required in the Emergency Response Action Plan".

Wausau Comment

Phase II activities commenced well within the stipulated time period and, in fact, started early on March 19, 1990 with mobilization for the sampling of the drums and tanks. USEPA's statements and resulting arithmetic are incorrect.

USEPA was continually apprised of all on-Site activities through weekly progress reports and was, therefore, well aware of the time frame for completion of the project. For example, CRA orally notified USEPA in June 1990 that the capacity for PCB-oil incineration was extremely limited and that, due to conditions beyond Wausau's control, the progress of work would be delayed. In fact, CRA requested, by letter dated June 20, 1990

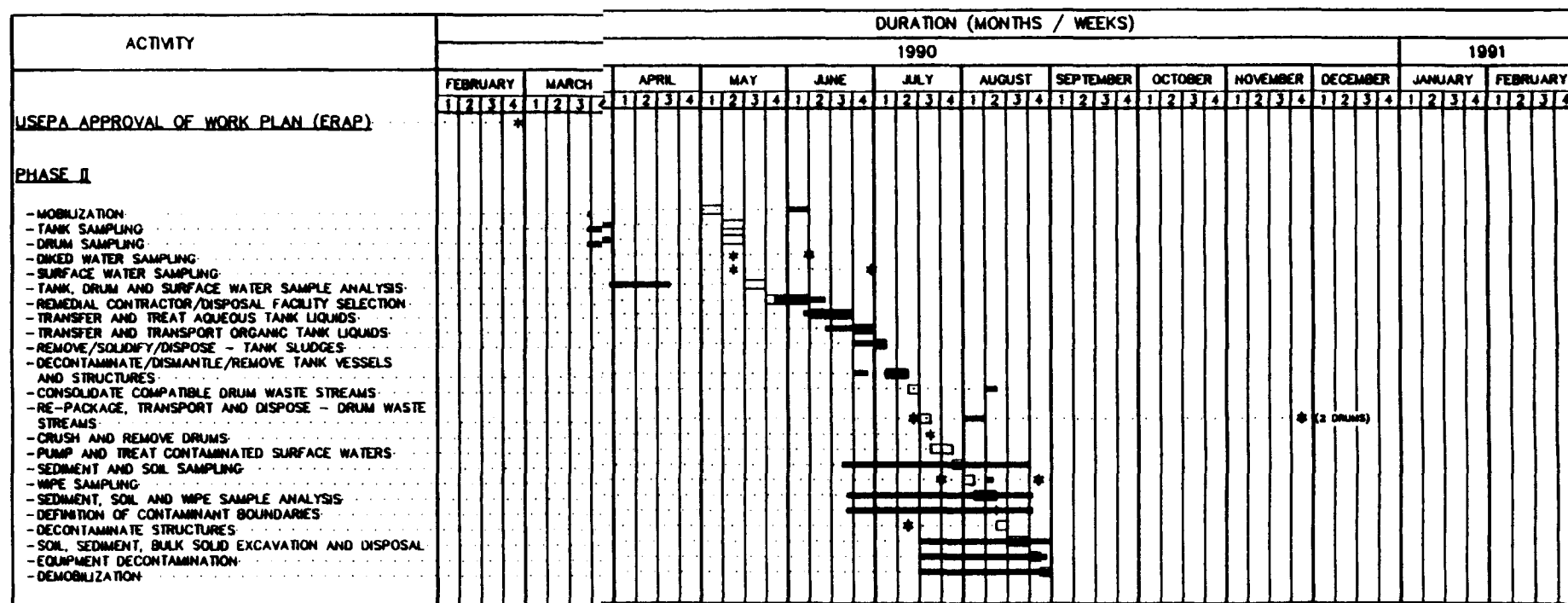
(B. Clegg to P. Guria), USEPA's assistance in obtaining additional incineration capacity to expedite and compress the project schedule. The concern with the potential for schedule slippage due to lack of incineration capacity (thus adding approximately sixty days to the on-Site activities) was well known to USEPA and was a subject of discussions between USEPA and Wausau even during the 106 Order negotiations. In fact, if not for the removal and disposal of the tank contents and tanks, all on-Site cleanup activities (except for removal of two drums) would have been completed within the time period originally set-out by the ERAP (on or about August 31, 1991). Since the completion of most Site work hinged on removal of the tank contents, this activity was rate-limiting. As indicated by Figure 1, removal of the tank contents (oil, water and sludge) within the periods originally envisaged by the ERAP would have otherwise allowed for completion of all substantive on-Site abatement activities by August 31, 1990. Figure 2 presents the actual completion periods. Thus, but for conditions beyond Wausau's control, on-Site cleanup and abatement activities would have been completed within the time frames established by the ERAP.

x) USEPA Statement No. 10 (page 4, last paragraph)

"However, Wausau did not conduct all necessary post cleanup sampling at the site. Therefore, USEPA has been forced to conduct soil and wipe sampling on site to verify complete



**ESTIMATED PROJECT SCHEDULE  
ASSUMING UNRESTRICTED INCINERATION CAPACITY  
AND ERAP TIME FRAMES FOR REMOVAL  
OF TANK LIQUIDS AND TANK STRUCTURES  
PHASE II ACTIVITIES  
EMERGENCY RESPONSE ACTION  
ROMULUS, MICHIGAN**

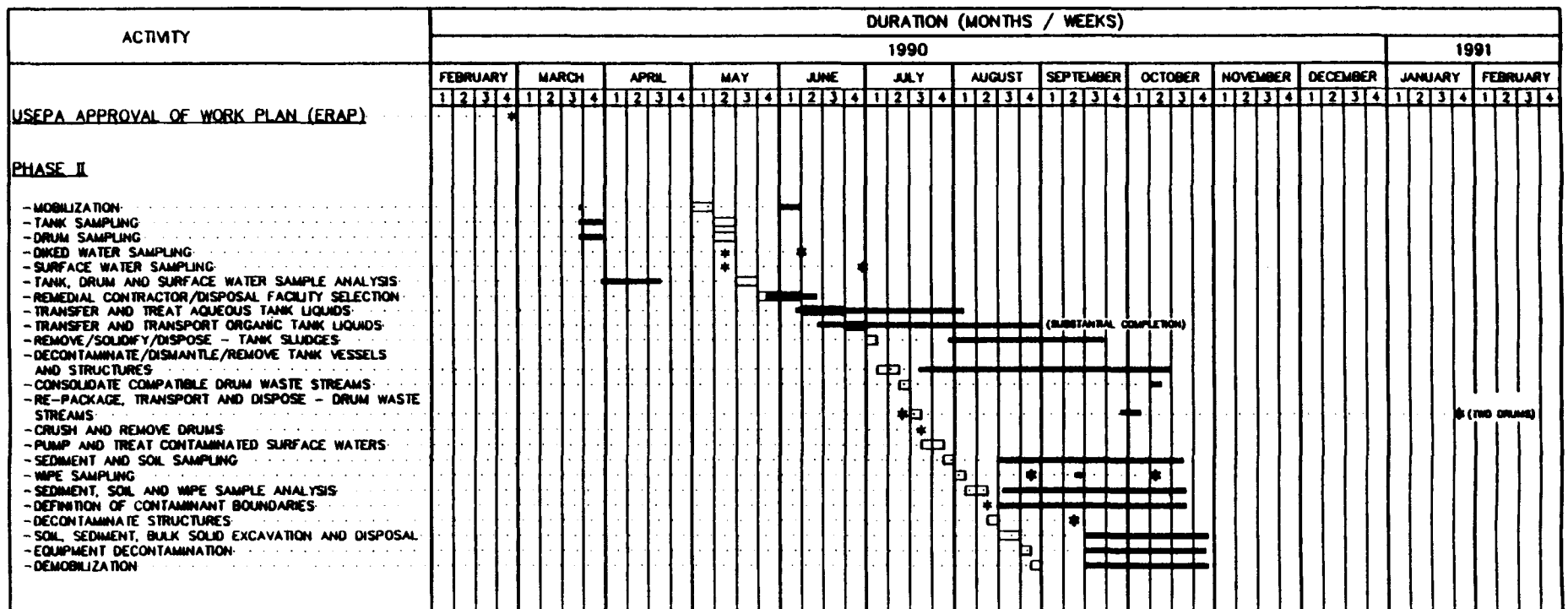


- LEGEND:**
- ACTIVITY OF SINGLE-DAY DURATION (ESTIMATED)
  - CONTINUOUS ACTIVITY (ESTIMATED)
  - \* - ACTIVITY OF SINGLE-DAY DURATION (PROPOSED IN ERAP, AND ASSUMING THE ACTUAL FEB. 28, 1990 USEPA APPROVAL DATE OF ERAP.)
  - CONTINUOUS ACTIVITY (PROPOSED IN ERAP, AND ASSUMING THE ACTUAL FEB. 28, 1990 USEPA APPROVAL DATE OF ERAP.)

CRA

figure 1  
**ESTIMATED PROJECT SCHEDULE  
ASSUMING UNRESTRICTED INCINERATION CAPACITY  
AND ERAP TIME FRAMES FOR REMOVAL  
OF TANK LIQUIDS AND TANK STRUCTURES  
PHASE II ACTIVITIES  
EMERGENCY RESPONSE ACTION  
CIW Company Site, Romulus, Michigan**

**ACTUAL PROJECT SCHEDULE  
PHASE II ACTIVITIES  
EMERGENCY RESPONSE ACTION  
CIW COMPANY SITE  
ROMULUS, MICHIGAN**



**LEGEND:**

- \* - ACTIVITY OF SINGLE-DAY DURATION (ACTUAL)
- - CONTINUOUS ACTIVITY (ACTUAL)
- \* - ACTIVITY OF SINGLE-DAY DURATION (PROPOSED IN ERAP, AND ASSUMING THE ACTUAL FEB. 28, 1990 USEPA APPROVAL DATE OF ERAP.)
- - CONTINUOUS ACTIVITY (PROPOSED IN ERAP, AND ASSUMING THE ACTUAL FEB. 28, 1990 USEPA APPROVAL DATE OF ERAP.)

**NOTE:**  
CONTRACTOR DEMOBILIZATION FROM THE CIW SITE WAS COMPLETED ON OCTOBER 28, 1990

figure 2  
**ACTUAL PROJECT SCHEDULE  
PHASE II ACTIVITIES  
EMERGENCY RESPONSE ACTION  
CIW Company Site, Romulus, Michigan**

removal of PCBs found in surface soil and exterior walls and floors at the site".

Wausau Comment

Confirmatory post cleanup sampling data was provided weekly (pursuant to USEPA's request) to the USEPA on an ongoing basis and is further included as Appendices to the RAR. All confirmatory sampling was completed by Wausau in accordance with the ERAP. Further, Wausau was never informed of the need to perform additional sampling.

### 3.0 CONCLUSION

#### 3.1 GENERAL

This Section presents several general comments which further confirm Wausau's compliance with the requirements of the Order as amended by the ERAP.

- i) The ERAP was developed and negotiated with USEPA on the basis of the need to remediate PCB-contaminated oils, soils and other bulk materials and hazardous drummed waste which existed at the CIW Site. The definition of whether a material was PCB-contaminated and, thus, required removal was specified to be on the basis of PCB concentration. In our opinion, the ERAP is absolutely clear that oils, soils and other bulk materials which did not contain PCBs above the specified action limits were not required to be removed from the Site.

The ERAP is described in the Administrative Order on page 7, paragraph 1 under ORDER. The ERAP provided the specific details that were to be implemented by Wausau to comply with the removal activities ordered in paragraph 4, page 8. Under paragraph 1, USEPA was to approve, disapprove, require revisions or modify the ERAP. Presumably, USEPA would approve the ERAP only if it complied with the removal activities stated in paragraph 4. Since USEPA did approve the ERAP, and since no modifications to the ERAP were made by USEPA subsequent to the approval, the USEPA's claim that Wausau

did not comply with the requirements of the Unilateral 106 Order is inconsistent with Wausau's compliance with the requirements of the ERAP, as documented by the RAR.

- ii) USEPA claims that the Site poses an imminent and substantial endangerment from a threatened release of hazardous substances which remain at the Site. From discussions with the USEPA OSC on June 24, 1991, we understand this concern arises primarily from the presence of petroleum hydrocarbon impacted soils.

The last documented USEPA Site visit that Wausau is aware of was on October 25, 1990 (Ross Powers and Peter Guria). The referenced USEPA Site investigation of May 9 and 10, 1991 was conducted more than six months following substantive completion of Phase II activities at the Site. The time lapse between October 1990 and May 1991 does not indicate a serious USEPA concern with tanked oils or petroleum hydrocarbon impacted soils which USEPA knew to remain on Site. Again, we note that the remaining oils at the Site do not contain PCBs, and were not required to be removed by the ERAP or the Order.

Again, Wausau specifically was not required by the ERAP to remove soils, oils or other materials which were not contaminated by PCBs above action levels. Post removal action sampling conducted by both Wausau and, reportedly, USEPA has confirmed that no soil or oil containing detectable PCBs above action levels remain at the Site. Further, extensive sampling of surface water and sediments from

surface water bodies adjacent to the CTW property during the removal program completed by Wausau conclusively demonstrate no adverse impact from Site surface water runoff.

Drummed materials remaining at the Site are either non-hazardous non-PCB containing waste or virgin commercial product. These materials are packaged in structurally sound 55-gallon drums specifically designed for their storage. All drums are securely stored within a small portion of a locked warehouse to which only USEPA has keys.

### 3.2 CONCLUSIONS

In conclusion, on the basis of the foregoing and contrary to USEPA's letter of June 10, 1991, Wausau has complied with the Order and the ERAP, and USEPA's letter deviates from the scope of emergency response activities specified by the Order and the ERAP. From discussions with the OSC during the June 24, 1991 Site visit, it is our understanding that USEPA intends to conduct extensive additional excavation and disposal of petroleum hydrocarbon visually stained soils, removal and disposal of non-PCB contaminated oils, disposal of remaining tanks, and removal and disposal of all drummed materials presently stored in the warehouse. Rather than mitigate a potential threat to human health or welfare or the environment posed by PCBs and certain drummed hazardous wastes, USEPA now appears to be attempting to achieve the equivalent of a "clean closure" (return to

background or predevelopment conditions). Simply stated, the Site activities presently being contemplated or undertaken by USEPA are in addition to that required by the Order or the ERAP.

Finally, on the basis of conditions which existed as of January 24, 1991 following Wausau's completion of removal activities required by the Order and ERAP or based upon our observations of June 24, 1991, CRA is of the opinion that the CIW Site does not pose an imminent and substantial endangerment from a threatened release of hazardous substances and that Wausau has complied with the Order as amended by the ERAP.